

EINSTEIN CHARTER SCHOOL OPERATING AGREEMENT

THIS AGREEMENT by and between the Orleans Parish School Board (hereinafter "OPSB") through its Board President, Phyllis Landrieu, who is duly authorized to act herein, and The Einstein Group, Inc., operating a charter school known as Albert Einstein Charter School, (hereinafter "Charter School" or "Charter Operator") shall be effective this _____ day of October, 2006.

RECITALS

WHEREAS, the "Charter School Demonstration Programs Law," LA-R.S. 17:3971 et seq. authorizes experimentation in the creation of innovative kinds of independent public schools for pupils;

WHEREAS, the Louisiana legislature has expressed its intention to provide a framework for such experimentation by the creation of such schools, a means for persons with valid ideas and motivation to participate in the experiment, and a mechanism by which experiment results can be analyzed, the positive results repeated or replicated, if appropriate, and the negative results identified and eliminated;

WHEREAS, the Louisiana legislature has, further stated its intention that the best interests of at-risk pupils shall be the overriding consideration in implementing the provisions of the "Charter School Demonstration Programs Law;"

WHEREAS, the purposes of the "Charter School Demonstration Programs Law" are to provide opportunities for educators and others interested in educating pupils to form, operate or be employed within a charter school designed to accomplish the following objectives, namely: (1) to improve pupil learning and, in general, the public school system; (2) to increase learning opportunities and access to quality education for pupils; (3) to encourage the use of different and innovative teaching methods and a variety of governance, management, and administrative structures; (4) to require appropriate assessment and measurement of academic learning results; (5) to account better and more thoroughly for educational results; and (6) to create new professional opportunities for teachers and other school employees, including the opportunity to be responsible for learning program at the school site;

WHEREAS, the Orleans Parish School Board is authorized, pursuant to LA-R.S. 17:3971 et seq., to execute Charter Contracts authorizing the operation of charter schools;

WHEREAS, the Orleans Parish School Board has approved the granting of a charter to The Einstein Group, Inc., effective January 1, 2006 with its fifth year in operation concluding on December 31, 2011, to operate a Type 1 Charter School, as defined in LA-R.S. 17:3973(3)(b);

NOW, THEREFORE, in consideration of the mutual covenants, representations, warranties and agreements contained herein and for other good and lawful consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby to be legally bound by the terms and conditions set forth herein, and enter the following Agreement accordingly:

1. Parties

- A. This Charter Contract is entered into between The Einstein Group, Inc., and its Board of Directors ("Charter Operator") and the Orleans Parish School Board for the purpose of operating a charter school known as Albert Einstein Charter School to provide Kindergarten-8th instruction.
- B. The person authorized to sign on behalf of the Orleans Parish School Board is its duly authorized President, Phyllis Landrieu.
- C. The person authorized to sign on behalf of the Charter Operator is Alice S. Midkiff ("Charter Representative"), who is the Director of Albert Einstein Charter School.
- D. The Charter Representative affirms as a condition of this Charter Contract, that he/she is the above-described representative of the Charter Operator and has authority to sign this Charter Contract on behalf of the Charter Operator. Attached hereto as Attachment A, and incorporated herein by reference, is a copy of a resolution of the Board of Directors of The Einstein Group, Inc., authorizing the individual listed above to sign documents, including this Charter Contract, on behalf of the Charter Operator.
- E. Charter Operator affirms, as a condition of this Charter Contract, that the nonprofit corporation is duly authorized according to the laws of the State of Louisiana. Attached as Attachment B and incorporated herein by reference is proof of the Charter Operator's legal formation. The Charter Operator certifies that all contracts obligating the charter school have been and will be undertaken by the Charter Operator as a nonprofit corporation and failure to act strictly as a nonprofit corporation shall be grounds for rescission of its charter.
- F. Charter Operator affirms, as a condition of this Charter Contract, that the nonprofit corporation has a governing or management board, whose members receive no compensation other than reimbursement of actual expenses incurred while fulfilling duties as a member of such a board.
- G. Incorporated herein by reference is a true and correct copy of the Application/Proposal of the Charter Operator that was relied upon by the Orleans Parish School Board in granting this Charter Contract and is an integral part of this contract.

2. Purpose

The Charter Operator shall provide educational services according to the educational standards established by law, the Charter Contract and the Charter Application/Proposal; measure pupil progress toward stated goals; and participate in pupil assessments required by law, regulation and Board of Elementary and Secondary Education ("BESE") policy. The Charter Operator shall manage the charter school in a financially prudent manner.

3. Nonsectarian Status

The charter school shall be nonsectarian in its programs, admission policies, employment practices and all other operations.

4. Nonassignability

- A. No right or interest in this Charter Contract shall be assigned by anyone on behalf of the Charter Operator without prior written approval of Orleans Parish School Board and delegation of any contractual duty of the Charter Operator shall not be made without prior written approval of Orleans Parish School Board. A violation of this provision shall be grounds for immediate termination of this Charter Contract and revocation of Charter.
- B. Should the Charter Operator propose to enter into a contract with another entity to manage the charter school, the Charter Operator agrees to submit all information requested by Orleans Parish School Board regarding the management arrangement, including a copy of the proposed contract and a description of the managing company, with identification of its principals and their backgrounds. The Charter Operator shall not enter a management contract without Orleans Parish School Board approval.

5. Compliance with Law

The Charter Operator shall comply with all federal and state laws and regulations applicable to charter schools and all requirements imposed by BESE policy and regulation. The Charter Operator shall conform, in all respects, with the educational standards contained in its Application/Proposal and Charter Contract.

6. Board of Directors of Nonprofit Corporation

- A. The Board of Directors of The Einstein Group, Inc., is responsible for complying with and carrying out the provisions of this Charter Contract, including compliance with applicable law and regulation and all reporting requirements.
- B. The Board of Directors The Einstein Group, Inc., is responsible for the sound fiscal management of the charter school.
- C. The Board of Directors of The Einstein Group, Inc., shall be the final

authority in matters affecting the charter school, including but not limited to staffing, job titles, employee salary and fringe benefits, financial accountability and curriculum.

- D. Notwithstanding the foregoing, the Charter School shall utilize a policymaking board, which shall be subject to the provisions of the Open Meetings Laws and Public Records Laws as defined by Louisiana Statutory Laws.

7. Sites

- A. The Charter School shall provide Kindergarten-8th educational services, including the delivery of instruction, at the following location(s):
 - 1. 5100 Cannes Street, New Orleans, Louisiana 70129-1203; and/or
 - 2. Such other locations as may be approved by the Board of Directors of The Einstein Group, Inc. and Orleans Parish School Board; and/or
 - 3. Such other locations may be necessary to operate due to Hurricane Katrina's impact on the above listed facilities, as mutually agreed by both parties to this Contract.
- B. The unavailability of any of the School Buildings due to the School Building not being put in suitable condition by the OPSB for the occupancy of the Charter School and as a result, the Charter School not being able to obtain any necessary permits to operate, shall not constitute relinquishment of the School Building by the Charter School during the term of this Agreement.
- C. After approvals for the initial occupancy of the School Buildings have been obtained and the Charter School occupies the School Buildings, the Charter School shall thereafter endeavor to ensure that the facilities comply with all state and local health and safety standards and other applicable laws, regulations and rules and that compliance will be maintained at all times.
- D. No lease will be required for 5100 Cannes Street, New Orleans, Louisiana 70129-1203. OPSB agrees that it is obligated to restore 5100 Cannes Street, New Orleans, Louisiana 70129-1203 and/or other School Buildings sufficiently to pre-Hurricane Katrina levels. If the Charter Operator makes capital improvements to any of the sites at which it operates with non-public funds, and this Charter Contract is revoked or terminated pursuant to paragraph 14 of this Charter Contract, the Charter Operator will be reimbursed for the fair market value of such capital improvements at the time the Charter Agreement is terminated.
- E. On an annual basis, the Charter School must prepare a school safety plan and submit it to the local office of the Office of Emergency Preparedness

for review and if applicable, approval for each school calendar year. Evidence of this plan shall be submitted to the OPSB Superintendent or his or her designee, prior to providing educational services at the School Buildings and on August 15th of each subsequent year of this Charter Agreement, and is considered a requirement as part of the safety approvals for the school building.

8. Charter Contract Interpretation

- A. Merger: The Charter Operator and Orleans Parish School Board intend this Charter Contract, including all of the attachments, to represent a final and complete expression of their agreement, which shall be considered the school's Charter; except that the parties recognize that amendments to this Charter Contract may be approved from time to time hereafter. No course of prior dealings between the parties shall supplement or explain any terms used in this document.
- B. In the event of inconsistency between the terms of this Agreement and any other provision of the Attachments, the terms of this Agreement shall prevail.

9. Notification Requirements

- A. The Charter Operator shall immediately notify Orleans Parish School Board of any conditions that may cause the school to vary materially from the terms of its approved charter or from state law.
- B. The Charter Operator shall immediately notify Orleans Parish School Board of any circumstance requiring the closure of the charter school, including, but not limited to, a natural disaster, such as a hurricane, tornado, storm, flood or other weather related event, other extraordinary emergency, or destruction of or damage to the school facility.
- C. The Charter Operator shall immediately notify Orleans Parish School Board of the arrest of any members of its Board of Directors, employees, contractors, subcontractors or any person directly or indirectly employed by the Charter Operator for a crime listed in La-R.S. 15:587.1(C) or any crime related to the misappropriation of funds or theft.
- D. The Charter Operator shall immediately notify Orleans Parish School Board of a default on any obligation, which shall include debts for which payments are past due by sixty (60) days or more.
- E. The Charter Operator shall immediately notify Orleans Parish School Board of any change in its standing with the Louisiana Secretary of State's office.
- F. The Charter Operator shall immediately notify Orleans Parish School

Board if its enrollment decreases by the greater of 30 pupils or ten percent or more compared to most recent pupil count submitted to the Orleans Parish School Board, Department of Education and/or BESE.

10. Amendments Requiring Orleans Parish School Board Approval:

Any amendment to this Charter Contract will be effective only if approved by the Charter Operator's Board of Directors at a public meeting. The proposed amendment must be submitted to the Orleans Parish School Board in writing and accompanied by a resolution of the Board of Directors within five (5) days of adoption. An amendment shall not become effective and the Charter Operator shall not take action or implement the changes requested in the amendment until the amendment is approved by Orleans Parish School Board. Changes in operation that require the Charter Operator to obtain an amendment to this Charter Contract include, but are not limited to, the following:

- Changes in legal status or ownership of the Charter Operator.
- Changes in the school's mission.
- Changes in maximum allowable student enrollment.
- Changes in school location (change of site and/or adding or deleting sites).
- Changes in the school calendar involving the number of days of instruction.
- Changes in admission procedures.
- Changes in Special Education procedures.
- Changes in the method(s) used to measure pupil progress.
- Signing authority for the charter school.

11. Amendments Requiring Notification of Changes:

A. Changes to this Charter Contract listed below do not require an amendment be made pursuant to Paragraph Ten (10) and shall be accomplished through written notification. The written notification shall include a copy of the resolution of the Charter Operator authorizing the changes.

B. Changes requiring notification include:

- Mailing address, phone and fax number of the Charter School.
- Change in Chief Operating Officer of the Charter School.
- Contact person located at the charter school site.
- Change of the Charter Operator's Certified Public Accountant.
- Change of the Charter Operator's Qualified Business Professional.
- Change in the membership of the Charter Operator's board of directors.

12. Term of Charter Contract

A. Five Year Term

This Agreement shall commence on the effective date provided above, and shall expire at midnight, June 30, 2011, unless terminated or extended pursuant to the terms hereof.

- B.** Upon completion of the Charter School's fifth (5th) year of operation pursuant to this Charter Contract, this Charter Contract may be renewed at the discretion of Orleans Parish School Board, pursuant to the applicable provisions of Title 17, Chapter 42 of the Louisiana Revised Statutes.

13. Revocation/Termination

- A.** As provided by law, this Charter Contract may at any time be terminated and the Charter revoked upon a determination and affirmative vote by a majority of Orleans Parish School Board that the Charter Operator, its board members, officers or employees did any of the following:

1. Committed a material violation of any of the conditions, standards, or procedures provided for in the approved charter;
2. Failed to meet or pursue within the agreed timelines any of the academic or other educational results specified in the approved charter;
3. Failed to meet generally accepted accounting standards of fiscal management; or
4. Violated any applicable federal, state or local law applicable to a charter school.

- B.** This Charter Contract may be terminated immediately and the Charter revoked if Orleans Parish School Board determines that the health, safety or welfare of the students is threatened. Orleans Parish School Board must provide written notice of termination, which shall include its findings and basis for termination. The termination and revocation shall be effective upon receipt of the notice of termination by the Charter Operator.

- C.** This Charter Contract may be terminated immediately by Orleans Parish School Board and the Charter revoked under the following conditions:

1. Mismanagement of public funds
2. Failure to retain facilities
3. Insufficient enrollment to meet financial obligations
4. Failure to provide records on reasonable demand
5. Failure to comply with requests made by auditors, law enforcement

officials or any other regulatory agencies
Orleans Parish School Board must provide written notice of termination.
The termination and revocation shall be effective upon receipt of the
notice of termination by the Charter Operator.

- D. In the event that the OPSB terminates the Charter, OPSB shall not be further obligated to pay any additional local funds to the Charter School from the date of the OPSB's termination
- E. In the event that the Charter School ceases operation for any reason, the Charter School and its governing body will be responsible for winding up the business and affairs of the Charter School and will cooperate with OPSB to the extent necessary to provide an orderly return of the students to their local school. Any public surplus remaining at the time the Charter School ceases operations shall be remitted to the OPSB within thirty (30) days of the day students no longer attend the Charter School. Any furniture and equipment purchased with OPSB funds shall be delivered to OPSB within thirty (30) days of the day students no longer attend the Charter School.
- F. The OPSB shall not be liable for the Charter School's unpaid debts if the Charter School does not have sufficient funds to pay all of its debts at the time it ceases operations.
- G. In the event that the Charter School does not commence operation of this Charter by the enrollment of students and the provision of educational services as contemplated herein within one (1) calendar year from the date of this Charter Agreement, then such failure to commence operation shall be deemed an automatic waiver, termination and expiration of the Charter. The Charter School shall be deemed to have waived all rights to hearing and shall not oppose termination procedures in the event of its failure to commence operation. Nothing herein shall prevent the Charter School from re-petitioning for another charter at a later appropriate and timely date.

14. Ceasing of Operations of the Charter School

In the event the Charter School closes and ceases operations for any reason, including termination of this Charter Contract, surrender or revocation of the Charter or dissolution of the nonprofit corporation, it is agreed that Orleans Parish School Board shall supervise and have the authority to conduct the winding up of the business and affairs of the charter school.

15. Site Visits

The Charter School shall grant reasonable access to, and cooperate with, the OPSB, its officers, employees or other agents, including allowing announced site visits for the purpose of allowing the OPSB to fully evaluate the operations and performance of the Charter School and its compliance with the Charter School Agreement.

16. Production of Documents

Representatives of the Charter Operator or the administrator of the charter school shall produce all documentation requested by BESE, the Department of Education, Orleans Parish School Board, the Louisiana Legislative Auditor, law enforcement officials, and contracted evaluators or any other federal, state or local regulatory agency within a reasonable period of time after prior notice.

17. Assets

- A. Any assets acquired by the Charter Operator are the property of the charter school for the duration of this Charter Contract. If this Charter Contract is terminated, the charter is revoked or surrendered, or the school otherwise ceases to operate, all assets purchased with any public funds or obtained from public sources shall automatically revert to full ownership by Orleans Parish School Board. Assets purchased with nonpublic funds or obtained from nonpublic sources will be retained by the Charter Operator.
- B. If the charter school fails to open and serve pupils or closes for any reason, the Charter Operator shall refund all equipment and cash on hand attributable to state funding to the state.
- C. If the charter school fails to open and serve pupils or closes for any reason, the Charter Operator shall refund all equipment and cash on hand attributable to federal funding to the appropriate division within the Department of Education, Orleans Parish School Board or other federal funding source.
- D. The Charter Operator must maintain records of any assets acquired with any private funds that remain the property of the Charter Operator. If the school's accounting records fail to clearly establish whether a particular asset was purchased with public funds or private funds, ownership of the asset will revert to Orleans Parish School Board.
- E. The Charter Operator shall maintain a complete and current inventory of all school property. The Charter Operator shall update the school property inventory quarterly.

- F. The Charter Operator shall be responsible for adequately safeguarding all assets purchased with any public funds and shall produce evidence of such upon request by Orleans Parish School Board.

18. Student and Financial Records & Accountability

A. Student Records and Use of Technology in Maintaining Records:

1. For all students enrolled in the Charter School who were previously enrolled in OPSB schools, the Charter School shall provide the full names, birth dates, student identification numbers, name of last OPSB school attended, grade last enrolled and date withdrew from last OPSB school to the OPSB Student Data Information Manager. If known, students with Individualized Education Plans (IEP) shall be identified. Parent signatures and authorizations to release records must be included. The OPSB shall provide the students' educational records within twenty (20) business days of receipt of the past student enrollment information and IEP within ten (10) days.
2. The Charter Operator shall maintain all student records in accordance with applicable federal and state laws, regulations, rules and policies, unless otherwise specifically exempted herein. The Charter School shall maintain all student records on behalf of OPSB during each student's enrollment in the Charter School. Upon a student's withdrawal or other matriculation from the Charter School, the student's educational records shall be returned within ten (10) business days to the OPSB's Student Data Information Manager for retention. The Charter School shall maintain and ensure the privacy and confidentiality of each student's educational record in accordance with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C.A 1232g, and shall not disclose to any unauthorized third party any personally identifiable information concerning any student enrolled in the Charter School without first obtaining prior written parental permission.
3. Each Charter School will use the same student information system as used by OPSB, if available. If the OPSB student information system is used by the Charter School, in order to provide OPSB with necessary data for state reporting and enrollment monitoring the Charter School agrees to use the OPSB student information system in accordance with school system specifications, OPSB will provide the Charter School, at the Charter School's expense, the minimum necessary hardware and SASIxp software, including upgrades and successor software, if applicable, to utilize the

district student information system.

4. The Charter School must maintain all data elements for federal and state mandated reporting. These data include, but are not limited to, Student Classes, Course (OPSB Course File), Sections, Grade Reporting and Attendance. Process timelines must be met in compliance with OPSB instructions. Course History and Discipline information must be maintained according to OPSB guidelines. Electronic student record transfer to and from the Charter School will be made through the district enrollment process.
5. If SASIxp is available, the Charter School will complete all tasks necessary to process data in SASIxp for federal, state, and district requirements in accordance with OPSB timelines. There are no exceptions to the reporting requirements due to the size of the Charter School. Requirements may change at any time due to modifications of federal, state or district requirements. Tasks will be communicated to the Charter School in a manner consistent with other OPSB schools.
6. The Charter School may choose to make use of other data elements in the basic installation of SASIxp for their data maintenance without support from OPSB. No changes to the OPSB code structure may be made. Additional modules are available through the software vendor.
7. OPSB will provide the Charter School with SASIxp software. The Charter School will be responsible for the SASI annual maintenance fee and expenses associated with respective modules. On an annual basis, OPSB will charge the Charter School a SASIxp maintenance fee. Notwithstanding the aforementioned and foregoing, if applicable, all terms and conditions concerning use of SASIxp will be fully outlined in a separate cooperative endeavor agreement between the Charter School and OPSB.
8. The Charter School is solely responsible for the school network connection to OPSB, which includes connectivity, monthly expense, and domain controller.
9. If this Charter Agreement is terminated, the charter is revoked or surrendered, or the school otherwise ceases to operate, all student records shall be immediately transferred to Orleans Parish School Board or its designee.

B. Financial and Operational Records: At all times, the Charter School shall maintain appropriate governance and management procedures and financial controls as herein provided:

1. The Charter School shall demonstrate to the satisfaction of the OPSB Comptroller/CFO that the following controls are in place prior to the transfer of any funds pursuant to this Agreement: (1) generally accepted accounting procedures; (2) a checking account

held in a financial institution with offices in Louisiana; (3) adequate payroll procedures; (4) procedures for the creation and review of monthly and quarterly financial statements, which procedures shall specifically identify the individual who will be responsible for preparing such financial statements in the following fiscal year, and (5) evidence that the Charter School has made every effort to ensure that the person responsible for the financial management of the Charter School has been bonded by a surety company in a satisfactory amount (the amount to be determined by then prevailing conditions). The bond will name the Orleans Parish School Board as coinsured. The Charter School shall provide the Superintendent of OPSB with a document evidencing compliance with this provision (hereinafter called the "Initial Statement"). In the event the Initial Statement reveals that any of the above controls is not in place, the Charter School shall remedy such deficiency within thirty (30) days of receipt of a notice of deficiency. All documentation should be submitted to the OPSB Superintendent, or his or her designee.

2. The Charter School shall cause a Financial Statement Audit and Financial and Administrative Procedures Controls Review (collectively, the "Financial Audits") to be performed annually at its expense by a Certified Public Accounting firm retained by the Charter School and the firm shall be on the Louisiana Legislative Auditor's approved list. The Charter School shall provide to the OPSB any reportable conditions and other advisory comments as defined by the American Institute of Certified Public Accountants, or additional information as required by the Louisiana State Board of Elementary and Secondary Education. The Financial Audits and other financial reports shall be provided to the OPSB no later than September 30th of each year or sooner if required by BESE. The required number of copies of the Financial Audit shall be submitted to the OPSB Superintendent or his or her designee. The Charter School will also provide OPSB with a schedule of all assets, as defined by OPSB, purchased with OPSB funds during the fiscal year as part of the year-end reporting.
3. Any deficit occurring during or at the end of a fiscal year will be eliminated by an infusion of funds from the Charter School Board or, if the Charter School has not eliminated the deficit by the end of the fiscal year, the Charter School must provide a plan for eliminating the deficit within the next fiscal year. No OPSB funds will be allocated to the Charter School for the next fiscal year until such plan has received OPSB approval.

4. The Charter School is solely responsible for all debts it incurs and OPSB shall not be contractually bound on the charter school's account to any third party.
5. The Charter School shall operate and maintain its budget in accordance with the Louisiana Local Government Budget Act.
6. The Charter School shall be considered an approved public school of the Orleans Parish School Board and shall receive a per pupil amount each year from the Orleans Parish School Board based on the October first membership count of the charter school or as otherwise may be provided by Louisiana law or BESE action. The per pupil amount provided to all charter schools shall be computed annually and shall be equal to no less than the per pupil amount received by the school district in which the charter school is located from the following sources based on the district's October first membership count as set forth in LA R.S. 17:3995 which is incorporated herein by reference.
7. The Charter School shall be eligible for any other federal, restricted state, and unrestricted state funding for which the school or its pupils qualify as provided for by LA R.S. 17:3995.
8. OPSB shall pay the estimated Annual Funding Amount to the Charter School as received from the State of Louisiana, Department of Education.
9. After OPSB has put the School Buildings in condition for occupancy by the Charter School and the provision of educational services by the Charter School, OPSB will begin payments to the Charter School. Thereafter, at the beginning of each contract year, OPSB will begin or continue to disburse payments to the Charter School only if the Charter School has submitted to OPSB evidence of and had approved: such permits as necessary to operate the School Buildings and evidence of the insurance required herein, including a surety bond.
10. All records of the charter school are subject to inspection and production as set forth in this Charter Agreement. If this Charter Contract is terminated, the charter is revoked or surrendered, or the school otherwise ceases to operate, the possession of all records of the school shall be immediately transferred to Orleans Parish School Board.

19. Testing

The Charter Operator shall perform all student testing required by state law and BESE policy and regulations.

20. Reporting

A. The Charter Operator shall timely supply all reports, test results and other information that are required under this Charter Contract, state law and BESE policy and regulations.

B. The Charter Operator shall provide a report at least at the end of each semester to parents of pupils enrolled in the school, the community and Orleans Parish School Board indicating progress toward meeting the performance objectives as stated in the Charter Application/Proposal.

21. Attendance

A. The Charter Operator's governing or management board and employees shall attend all training sessions required by BESE, Orleans Parish School Board or the State or Federal Department of Education.

B. The Charter Operator shall attend all meetings, in which Orleans Parish School Board requests its presence, after reasonable notice of the requested meeting. These meetings shall include, but are not limited to, meetings with staff, committee and full board meetings.

22. Financial Accounting and Reporting

A. The Charter Operator is subject to appropriate financial audits in accordance with LA-R.S. 24:513 et. seq. as stated in LA-R.S. 17:3996(F).

B. The Charter Operator shall comply with the provisions of LA-R.S. 39:1301 through 1315 (Local Government Budget Act) and shall annually submit a budget directly to the Orleans Parish School Board. LA-R.S. 17:3996(G), which shall submit the charter school's budget to the state superintendent of education in accordance with the provisions of R.S. 17:88.

C. The Charter Operator shall maintain records in a manner to reflect compliance with this Charter Contract and Generally Accepted Accounting Principles.

23. Certified Public Accountant/Qualified and Competent Business Professional

- A. The Charter Operator shall retain a Certified Public Accountant to validate all pupil count reports submitted to the Department of Education and BESE by the Charter Operator. The Certified Public Accountant shall affix his or her signature to each pupil count report submitted, thereby affirming that the information contained therein is true and accurate. Attached hereto as Attachment C and incorporated herein by reference, is a copy of a resolution of the Board of Directors of The Einstein Group, Inc., indicating that the Certified Public Accountant listed therein has been retained by the Charter Operator.
- B. The Charter Operator shall retain a Qualified and Competent Business Professional to produce all financial and accounting information and reporting required by this Charter Contract, state law and BESE policy and regulation, except the required annual audit, which must be performed by an independent auditor. Attached hereto as Attachment D, and incorporated herein by reference, is a copy of a resolution of the Board of Directors of The Einstein Group, Inc., indicating that the Qualified and Competent Business Professional listed therein has been retained by the Charter Operator.
- C. The Charter Operator's Qualified and Competent Business Professional shall be responsible for validating all inventory reports submitted to BESE by the Charter Operator.
- D. The Qualified and Competent Business Professional shall affix his or her signature to every document he or she prepares, thereby validating its authenticity as his or her work product. All documents and reports submitted pursuant to this Paragraph shall contain the signature of the Charter Operator's Qualified and Competent Business Professional, thereby affirming that the information contained therein is true and accurate.

24. Notices

Any notice, demand, or request from one party to any other party or parties hereunder shall be deemed to have been sufficiently given or served for all purposes if, and as of the date, it is delivered by hand, overnight courier or within three (3) business days of being sent by registered or certified mail, postage prepaid, to the parties at the following addresses:

If to the Charter School:

Alice S. Midkiff
Director
5100 Cannes Street
New Orleans, LA 70129-1203

If to the OPSB:

Board President
Orleans Parish School Board
3520 General DeGaulle Drive
New Orleans, LA 70114

With copy to:

Superintendent
New Orleans Public Schools
3520 General DeGaulle Drive
New Orleans, LA 70114

And:

General Counsel
Orleans Parish School Board
3520 General DeGaulle Drive
New Orleans, LA 70114

25. Insurance

- A. The Charter Operator shall, at its own expense, purchase and maintain insurance covering all of its operations. Said insurance shall include, but not be limited to workers' compensation the limits of which shall be in compliance with state law, employer's liability insurance to cover bodily injury by accident in the amount of \$500,000 per each accident, Errors and Omissions Liability Insurance to cover the Charter Operator for those sources of liability arising out of the rendering or failure to render professional services in the performance of this agreement, including all provisions regarding financial management and indemnification, bodily injury by disease in the amount of \$500,000 for each employee, comprehensive general liability insurance in the following forms: (1) comprehensive form; (2) contractual insurance; (3) personal injury; (4) broad form property damage; (5) premise-operations and (6) completed operations. This coverage shall be in the amount not less than \$1,000,000, combined single limit, and shall also cover the use of all equipment, hoists and vehicles on the premises not covered by automobile liability. The policy coverage must be on an occurrence basis. Automobile liability and Physical Damage insurance is required in the following amount: (1) comprehensive insurance in an amount not less than \$1,000,000 for each, for bodily injury and property damage combined single limit; and (2) specific extensions of comprehensive form coverage and coverage for all owned, hired, leased and non-owned vehicles used in the operation of the Charter School.
- B. Each and every agent shall warrant when signing the Certificate of Insurance that he or she is acting as an authorized representative on behalf of the companies affording insurance coverage under this Agreement and that he or she is licensed by the State of Louisiana is currently in good standing with the Commissioner of Insurance for the State of Louisiana.
- C. Any and all companies providing insurance required by this Agreement

must meet the minimum financial security requirements as set forth herein. The rating for each company must be indicated on the Certificate of Insurance. Companies providing insurance under this Agreement must have a current Best's Rating not less than A+ and Best's Financial Size Category not less than Class VII.

- D. Proof of all insurance required by this section must be provided for the OPSB Office of Risk Management review prior to the operation of the Charter School and shall be maintained during the entire length of this Agreement. The OPSB shall be covered as an additional insured under any and all insurance required by this Agreement. Confirmation of this shall appear on all Certificates of Insurance and any and all applicable policies. The OPSB shall be given no less than thirty (30) days written notice of cancellation and of any material change of coverage in any insurance required pursuant to this Agreement. The OPSB shall also be given written notice of renewal of coverage not less than thirty (30) days prior to the expiration of any policy.
- E. All insurance required under this agreement shall be in effect at the beginning of each contract year and continue through each fiscal/academic year of July 1 through June 30. All insurance information shall be submitted to the OPSB Office of Risk Management.
- F. As evidence of compliance with the insurance required by this Charter Contract, the Charter Operator shall annually provide Orleans Parish School Board with current certificates of insurance signed by an authorized representative of the insurer(s). The certificates shall evidence that policies providing the required coverage, conditions and limits are in full force and effect.

26. Indemnification and Acknowledgments

- A. The Charter Operator shall defend, indemnify, and hold harmless the OPSB, its officers, directors, agents, employees, partners, and subcontractors (collectively referred to as "OPSB Indemnities") from any and all claims, demands, suits, actions, proceedings, losses, costs, judgments, damages or other forms of liability to third parties, of every kind and description, actual or claimed, including but not limited to attorneys' fees and/or litigation expenses, including, but not limited to injury to property or persons (including, but not limited to civil rights violations), occurring or allegedly occurring, in connection with the operation of the Charter School from conducted committed or alleged to have been committed on the premises of the Charter School or by the Charter School, or by its employees, officers, directors, subcontractors, or agents, during the term of this charter or any renewal thereof, which may be brought or made against or incurred by the Orleans Parish School Board on account of any action of the Charter Operator, its employees, agents or assigns. The provisions or limits of insurance required under this contract shall not limit the liability of the Charter Operator. The

Charter School shall defend the OPSB in any such action or proceedings brought thereon.

- B. Any management contract entered into by the Charter School shall include an indemnification provision as follows: The management company shall indemnify and save and hold the OPSB Indemnities harmless against any and all claims, demands, suits, actions, proceedings, losses, costs, judgments, damages or other forms of liability to third parties, of every kind and description, actual or claimed, including but not limited to attorneys' fees and/or litigation expenses, including, but not limited to injury to property or persons (including, but not limited to civil rights violations), occurring or allegedly occurring, in connection with the operation of the Charter School from conducted committed or alleged to have been committed on the premises of the Charter School or by the Charter School from conduct committed by the management, or by its employees, officers, directors, subcontractors, or agents, during the term of this charter or any renewal thereof. The management company shall defend the OPSB Indemnities in any such action or proceedings brought thereon.
- C. Each party shall give prompt written notice to the other of the assertion of any claim or the commencement of any litigation for which indemnification is sought and shall cooperate with the indemnifying party in the defense of the claim or litigation.
- D. The Charter School shall not settle or compromise any claim against OPSB without the express written permission of the OPSB.
- E. This Charter Contract is not an employment contract. No officer, employee, agent or subcontractor of the Charter Operator or the School is an officer, employee, or agent of Orleans Parish School Board.
- F. The parties acknowledge that, pursuant to LA-R.S. 17:3993, Orleans Parish School Board and its members individually are immune from civil liability for any damages arising with respect to all activities related to the operation of any type of charter school they may authorize as a chartering authority.
- G. This indemnification shall not apply to the extent that any claim, lien, demand, suit or liability from the sole negligence of wrongful act or omission of any OPSB Indemnity or from any act or omission of the Charter School required by law or this Agreement.
- H. Nothing herein shall waive the right of OPSB Indemnities to assert any statutory or legal defense of sovereign immunity or official immunity.
- I. This indemnification, defense and hold harmless obligation shall survive the termination of this Agreement. Any indemnified party shall have the right, at its own expense, to participate in the defense of any lawsuit,

without relieving the indemnifying party of its obligations hereunder.

27. Non-Discrimination Clause

- A. The Charter Operator agrees to abide by the requirements of the following as applicable: Title VI and VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972; Federal Executive Order 11246; the Federal Rehabilitation Act of 1973, as amended; the Vietnam Era Veteran's Readjustment Assistance Act of 1974; Title IX of the Education Amendments of 1972; the Age Act of 1975; and the Americans with Disabilities Act of 1990.
- B. The Charter Operator agrees to not discriminate against students on the basis of disability, race, creed, color, gender, national origin, religion, ancestry, and familial status or for special educational needs.
- C. The Charter Operator agrees not to discriminate in its employment practices, and will render services under this contract without regard to race, color, religion, sex, national origin, veteran status, political affiliation, marital status, or disabilities.
- D. Any act of discrimination committed by the Charter Operator or its agents, or failure to comply with these statutory obligations when applicable shall be grounds for termination of this contract.

28. Compliance with Laws and Regulations

The Charter School shall comply with all federal, state and local with Louisiana rules, regulations, and statutes and shall operate in accordance R.S. 17:3971.

29. Criminal History Review

- A. All personnel employed by the Charter School shall be fingerprinted and shall pass a criminal record check prior to employment.
- B. No person who has been convicted of or has pleaded *nolo contendere* to a crime listed in LA-R.S. 15:587.1(C) shall be hired by a public charter school or public school system for a position of supervisory or disciplinary authority over school children unless approved in writing by a district judge of the parish and the district attorney.
- C. No person employed or otherwise associated with the charter school, including any contact person listed on the charter school application or any member of the management board, who has been convicted of or has pleaded *nolo contendere* to a crime related to misappropriation of funds or theft shall be engaged in direct processing of charter school funds.
- D. The Charter Operator shall adhere to all policies/procedures adopted by BESE concerning criminal history review for public school employees, as well as other persons associated with the charter school who are engaged

in direct processing of charter school funds.

- E. A criminal history review through the Louisiana Department of Public Safety and Corrections, Office of State Police, Bureau of Criminal Identification, shall be administered. The criminal history review shall include a fingerprint check and simultaneous FBI check. All costs associated with the criminal history review shall be the responsibility of the entity granted the charter, although the Charter Operator may assign the responsibility to those persons undergoing the criminal history review.

30. General Terms and Conditions

In addition to the Charter Application which is incorporated in full by reference herein, the Charter Operator shall also comply with the following general terms and conditions:

- A. Recitals Incorporated by Reference: The recitals to this Agreement are incorporated herein by reference and made a part hereof.
- B. Charter Approval: The Charter School is hereby granted a public school charter in accordance with Louisiana Revised Statute 17:3971 et. seq., and the terms and conditions of this Agreement, to operate a charter school as described herein.
- C. Disclaimer of Liability : The parties expressly acknowledge that the Charter School is not acting as the agent of OPSB except as required by law or this Agreement and OPSB assumes no liability for any loss or injury resulting from (1) the acts and omissions of the Charter School, its directors, officers, agents or employees; (2) the use and occupancy of the School Buildings, or any matter in connection with the condition of the School Buildings; or (3) any debt or contractual obligation incurred by the Charter School. The Charter School acknowledges that it is without authority to, and will not, extend the faith and credit of the OPSB to any third party.
- D. Authority: The Charter School is not an agent of and does not have the authority to bind OPSB except as specifically authorized in the Charter School Agreement.
- E. Delegation: The parties agree and acknowledge that the functions and powers of OPSB with respect to this Agreement may be exercised by the Superintendent or Acting Superintendent of the New Orleans Public Schools, provided that any ultimate decision regarding renewal, non-renewal or revocation of this Agreement or substantial modification of this Agreement may be made only by the OPSB.
- F. Public School: The Charter School shall be a public, nonsectarian,

nonreligious, nonprofit school, which is not home based and is organized and operated under the laws of the State of Louisiana, and which shall be located in the facility or facilities listed herein.

G. Human Resources:

- (1) The faculty, instructional staff and all other personnel necessary for the operation of the Charter School shall be employees of the Charter School. The Charter School is responsible for providing any and all salary and/or wages, including any benefits for any personnel employed by the Charter School. It is the responsibility of the Charter School to comply with all local, state and federal laws relating to the hiring of all staff personnel.
- (2) Students of the Charter School shall be instructed by teachers certified by the Louisiana Department of Education in all core academic areas as defined in Section 1119 of the No Child Left Behind Act. Paraprofessionals with instructional support duties must meet guidelines of Section 1119 of the No Child Left Behind Act and the Elementary and Secondary Education Act.

H. Transportation: The Charter School is responsible for providing or not providing any transportation from home to school and school to home based on the needs of the students who enroll. Any Charter School contract(s) for transportation needs to be with a company that maintains compliance with all applicable U.S. Department of Transportation rules and regulations and state laws, rules and regulations governing vehicle safety equipment, inspections and licenses. Notwithstanding the aforementioned, OPSB shall provide transportation at no cost to the Charter School to any student who attends the Charter School because that student transferred to the school under the No Child Left Behind Act.

For local field trips, the Charter School is eligible for bus services from OPSB at the same rate as any OPSB school is charged and is required to follow reservation procedures. For any special needs students enrolled in the charter school with an IEP requiring special transportation to and from school, the Charter School can contract with OPSB for a fee for transporting any such student.

Notwithstanding the aforementioned, if applicable, all transportation terms and conditions will be fully outlined in a separate cooperative endeavor agreement between the Charter School and OPSB.

I. School Nutrition Program: The OPSB may, at the Charter School's option, provide nutrition services to the Charter School for the student breakfast and lunch programs for the academic year, excluding any summer program under terms and conditions that will be fully outlined in a separate cooperative endeavor agreement between the Charter School and OPSB, if applicable.

The Charter School shall be responsible for providing, maintaining, and

replacing all kitchen equipment and ensuring the kitchen facility meets all applicable code requirements for a school kitchen, including obtaining annual food service permits. The Charter School shall be responsible for maintaining and/or replacing any OPSB computer equipment at the Charter School meal line Point of Sale (POS) and/or Cafeteria Manager workstation. OPSB will provide POS software licenses for all workstations. It is the responsibility of the Charter School to provide necessary connectivity for rapid, reliable, electronic, nightly data transmission to OPSB in accordance with specifications to be provided by OPSB.

As part of the OPSB School Nutrition Program, each school year OPSB will provide Federal Eligibility Application forms for the Charter School for each student to determine free or reduced meal eligibility. These forms must be completed by each household and returned by the Charter School to OPSB following all procedures and timelines. The data from these forms is also used to determine the Charter School's eligibility for Title I funds.

In the event that OPSB discontinues food services, the Charter School will be responsible for providing household survey forms, dissemination, collection and submitting eligibility data to OPSB for the purposes of determining the Charter School's eligibility for Title I funds.

Notwithstanding the aforementioned, if applicable, all child nutrition terms and conditions will be fully outlined and the parties will be bound by a separate cooperative endeavor agreement between the Charter School and OPSB.

- J. Grants: To the extent required by law or regulation, OPSB will serve as the local education agency for the purposes of the Charter School applying for and receiving Federal and State grants. The Charter School will follow all OPSB requirements for the processing of funds derived from such grants. The Charter School may obtain any and all other grants as it sees fit. OPSB will not serve as the fiscal agent for any other grants unless mutually agreed prior to the Charter School applying for and being awarded funds. The receipt of grants by the Charter School shall not change the Annual Funding Amount.
- K. Tuition and Fees: The Charter School shall not charge tuition to any student. The Charter School may not charge fees for textbooks, instructional materials, student activities or transportation. Reasonable fees may be charged for before and after-school programs and other extra-curricular activities. Tuition cannot be charged for remedial summer school.
- L. Other Funding: The Charter School may accept charitable donations or any other type of donations or funding on behalf of the Charter School. Such charitable donations shall not change the Annual Funding Amount.

M. Educational Program: As required by the State Board of Elementary and Secondary Education, as well as state and federal statute, the Charter School shall do the following:

(1) Students to be Served, including Students with special needs and disabilities:

- a. The Charter School shall have an effective educational model for the delivery of special education services. The Charter School shall have non-discriminatory admission policies consistent with its mission and with state and federal law.
- b. The Charter School shall comply with all applicable special education requirements including, but not limited to, those imposed by the Individuals with Disabilities Education Act (IDEA), Section 504 of the Rehabilitation Act of 1973, and Title II of the Americans with Disabilities Act, along with any applicable provisions of the Louisiana charter school law concerning the provision of special education and related services. Notwithstanding the foregoing, nothing provided for herein shall relieve OPSB of any obligation it might have to comply with state and federal law and with any obligations contained within the charter agreement and/or any other agreement(s) between OPSB and the school relating to the provision of special education and related services.
- c. The Charter School shall have a special education department with a qualified coordinator who will be responsible for monitoring individual case management of all special education students and for arranging the provision of services required by their IEP. A file demonstrating the school's compliance with providing special education will be maintained. Where possible, Charter School will seek to offer special education services in an inclusion setting.
- d. The Special Education Coordinator will:
 - Ensure that all aspects of the IEP are followed;
 - Arrange for the teacher of the child being served at the Charter School to attend IEP team meetings, including arranging for a substitute teacher;
 - Communicate with parents about progress made toward attaining the goals stated on the child's IEP, and inform them of due process procedures and rights;
 - Consult quarterly with the Principal and Academy Directors to ensure that the objectives and goals of students with IEPs are being met;
 - Complete the requisite paperwork, update and file

necessary information for initial referrals, oversee triennial evaluations, monitor student progress, and provide any/all test modifications as stipulated in the IEP for students being served at the Charter School;

- Maintain a central file with all special education evaluation material and IEPs in accordance with FERPA and IDEA guidelines; and
 - Provide a report of student progress on the same schedule as students in general education.
- e. As required by IDEA, the school will collect and maintain the following information on students with disabilities:
- The count of all school-aged students with disabilities being provided special education services by age, grade, category of disability and the number of students with disabilities who are Limited English Proficient;
 - The number of students provided with test modifications;
 - The settings in which students with disabilities receive their services, specifically the portion of the school day they receive services with non-disabled peers including time away from the regular classroom;
 - The number of students with disabilities suspended “in-school” and “out of school,” organized by disability and length of suspensions; and
 - The basis of exit of students with disabilities from the Charter School (e.g., attainment of diploma and type, declassified, moved, etc.).
- f. For students with English as a second language, the Charter School will (utilizing local and State resources as need and where available) determine the most appropriate course of action for that (those) student(s). The Charter School will contract with a qualified provider to provide any such services. The Charter School will ensure that the contracted provider meets the current Louisiana curriculum standards for an ESOL program. Immersion in the regular classroom will be the preferred model for mastering the English language.
- g. Under the No Child Left Behind Act, all students must meet or exceed state standards by 2014. The Charter School should believe that this mandate is merely a minimum requirement and must strive to achieve higher academic standards for all of its students. The Charter School will participate in all state-required testing. The Charter School will participate in any additional assessments that the State of Louisiana might develop and administer in the future.

- h. Federal Impact Aid: The Charter School shall participate in collecting Federal Impact Aid Questionnaires or any other documents required to secure or retain federal funds and shall submit completed data by the stated OPSB deadline of each year to the OPSB Chief Information Officer, or his or her designee.
- i. Office of Civil Rights Report: On years it is due and the Charter School has been designated by the federal office to participate, the Charter School shall complete and submit the biennial Office of Civil Rights Report two (2) weeks prior to the due date in a format as specified by the Office of Civil Rights to the OPSB Chief Information Officer, or his or her designee.
- j. Student Withdrawal: A student may withdraw without penalty from the Charter School at any time and enroll in the appropriate OPSB school based upon the student's residence address and grade level. A student who is suspended or expelled from the Charter School as a result of a disciplinary action taken by the Charter School shall be entitled to enroll in the student's regular attendance zone school only if such student would not have been subject to suspension or expulsion by OPSB for the conduct which gave rise to the suspension or expulsion. The Charter School shall notify the Deputy Superintendent, or his or her designee, when it plans to suspend a student for more than ten (10) days or expel a student. Due to space limitations in the OPSB alternative school program, there is currently no alternative school placement for the Charter School.
- k. Evaluation Procedures: The Charter School shall evaluate the effectiveness of its plan for improvement on an annual basis. The Charter School shall submit an Annual Evaluation Report to the OPSB on or before August 1st of each year. The Annual Evaluation Report shall set forth the academic program and the progress made by the Charter School in the previous year in implementing its improvement plan, including without limitation, the results of all state-mandated assessment scores and documentation that students met minimum state standards, and documentation that students met or exceeded the academic or vocational education goals and objectives for that school year. The Annual Evaluation Report will include all state-mandated accountability indicators. Each year, the Annual Evaluation Report shall be in a form specified by the OPSB or as required by the Louisiana Department of Education, with the number of required copies submitted to the OPSB

Superintendent, or his or her designee. The same Annual Evaluation Report shall also be made available to the parents or guardians of students enrolled in the Charter School, the community, and the State Board of Education.

N. Maintenance of Corporate Status and Good Standing

- (1) The Charter School shall at all times maintain itself as a Louisiana not-for-profit corporation capable of exercising functions of the Charter School under the laws of the State of Louisiana; shall remain in good standing under the Laws of the State of Louisiana; and shall timely make all required filings with the Louisiana Secretary of State.
- (2) The Charter School's Articles of Incorporation, a Certificate of Incorporation evidencing its incorporation as a nonprofit, its Bylaws and amendments or modifications thereto shall be made a part of this Agreement.
- (3) In the event the Charter School becomes or seeks to become recognized as an organization exempt from Federal Income Taxation under 501(c)(3) of the Internal Revenue Code, the Charter School shall further provide the OPSB with copies of all applications and filings related to its seeking or maintaining 501(c)(3) status. A list of current board members of the nonprofit corporation and the name of the charter board chair shall be made a part of this Agreement.

O. Amendments: This Agreement may be amended upon the approval of OPSB and a majority of the governing body of the Charter School.

Any and all amendments, modifications or other changes to the terms of this Agreement shall be made effective in writing, properly authorized by the governing boards of the Charter School and OPSB, and shall be conformed to by the appropriate representative of the parties prior to taking any effect.

P. Severability: In the event that any provision of this Agreement or the application hereof to any person or in any circumstances shall be determined to be invalid, unlawful, or unenforceable to any extent, the remainder of this Agreement, and the application of such provision to persons or circumstances other than those as to which it is determined to be invalid, unlawful or unenforceable, shall not be affected thereby, and each remaining provision of this Agreement shall continue to be valid and may be enforced to the fullest extent permitted by law.

Q. Governing Law and Venue: This Agreement is to be construed and enforced under, in accordance with, and governed by, the laws of the State of Louisiana. Each of the parties to this Agreement irrevocably consents to any suit, action, or proceeding with respect to this Agreement being

brought in the Civil District Court for the Parish of Orleans, State of Louisiana.

- R. Headings: The section headings of this Agreement are for the convenience of the parties only and in no way alter, modify, amend, limit or restrict the contractual obligations of the parties.

Considering the foregoing and that the Charter Operator's proposal has been approved by the Orleans Parish School Board, a charter, as set forth in the Charter Operator's proposal, as conditioned by state law, BESE regulations and this Charter Agreement, is hereby granted. All of the aforementioned terms and conditions have been agreed to and accepted by the following:

Orleans Parish School Board:

By: Phyllis Landrieu
Phyllis Landrieu
President, Orleans Parish School Board

3/14/07
Date

The Einstein Group, Inc.

By: Alice S. Midkiff
Alice S. Midkiff
Director, Einstein Charter School

10-31-2006
Date